

DMB:MEH:all/2001V00183

ORIGINAL

4
3/13/01
JR
FILED
HARRISBURG, PA

MAR 12 2001

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

MARY E. D'ANDREA, CLERK
Per 9/8
Deputy Clerk

ROBERT A. GAINES, :
Petitioner :
 : Civil No. 1:CV-01-0183
v. :
 : (Judge Rambo)
MICHAEL ZENK, et al., :
Respondents :

MOTION FOR ENLARGEMENT OF TIME

Pursuant to Fed. R. Civ. P. 6(b), Respondents request the Court to grant them a forty-five-day enlargement of time in which to file a response to the Court's show cause order. Respondents state the following in support thereof:

1. Petitioner, Robert A. Gaines, is an inmate incarcerated at the Allenwood Federal Correctional Institution at White Deer, Pennsylvania.

2. Petitioner filed the instant petition pursuant to 28 U.S.C. § 2241. The Petition for Writ of Habeas Corpus raises an Apprendi claim.

3. By Order dated February 20, 2001, respondent was ordered to show cause on or before March 12, 2001, why petitioner should not be granted habeas corpus relief.

4. Petitioner's Apprendi claim is appropriately addressed by the district that prosecuted him. Accordingly, in order to respond to Petitioner's allegations, the undersigned has requested assistance from the Middle District of North Carolina, who prosecuted Petitioner.

5. Although the undersigned is working with the prosecuting office to gather information and documentation necessary in order to prepare a response to Petitioner's allegations, this process has not yet been completed.

5. Thus, on behalf of Respondents, the United States Attorney's Office requests an enlargement of time of forty-five days in which to respond to the show cause order.

6. Petitioner will not be unduly prejudiced by the requested enlargement of time as petitioner's potential release date, via good conduct time release, is on or about September, 2016.

WHEREFORE, on behalf of Respondents, the United States Attorney's Office requests a forty-five-day enlargement of time until April 26, 2001, in which to adequately respond to the allegations of the petition. Counsel certifies that he has not

sought the concurrence of petitioner because petitioner is a prisoner proceeding pro se. M.D. Pa. Local Rule 7.1.

Respectfully submitted,

DAVID M. BARASCH
United States Attorney

Matthew Haggerty / DD

MATTHEW E. HAGGERTY
Assistant U.S. Attorney
ANITA L. LIGHTNER
Paralegal Specialist
228 Walnut Street
P.O. Box 11754
Harrisburg, PA 17108-1754
(717) 221-4482

Dated: March 12, 2001

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

ROBERT A. GAINES, :
Petitioner :
 : Civil No. 1:CV-01-0183
v. :
 : (Judge Rambo)
MICHAEL ZENK, et al., :
Respondents :

CERTIFICATE OF SERVICE BY MAIL

The undersigned hereby certifies that she is an employee in the Office of the United States Attorney for the Middle District of Pennsylvania and is a person of such age and discretion as to be competent to serve papers.

That on this 12th day of March, 2001, she served a copy of the attached

MOTION FOR ENLARGEMENT OF TIME

by placing said copy in a postpaid envelope addressed to the person hereinafter named, at the place and address stated below, which is the last known address, and by depositing said envelope and contents in the United States Mail at Harrisburg, Pennsylvania.

Addressee:

Robert A. Gaines
Reg. No. 38739-053
FCI Allenwood
P.O. Box 2000
White Deer, PA 17887


ANITA L. LIGHTNER
Paralegal Specialist